

55-5-1. Blind persons -- Operation of vending stands or enterprise in public buildings and on public property.

For the purpose of providing blind persons with an opportunity to become self-supporting, enlarging the economic opportunities of the blind and stimulating the blind to greater efforts in striving to make them self-supporting, blind persons under the provisions of this act shall be authorized to operate vending stands or other enterprises in state, county, or municipal buildings, parks or other property owned by the state of Utah, where in the discretion of the head of the department or agency in charge of the maintenance of the building, park or other property owned by the state of Utah or political subdivisions thereof such vending stands or other enterprises may be properly and satisfactorily operated by blind persons.

No Change Since 1953

55-5-2. Licensing agency -- Duties of Utah State Office of Rehabilitation.

(1) The Division of Services for the Blind and Visually Impaired, Utah State Office of Rehabilitation is designated as the licensing agency for the purpose of carrying out this chapter.

(2) The Division of Services for the Blind and Visually Impaired, shall:

- (a) take necessary steps to carry out the provisions of this chapter;
- (b) with the approval of the custodian having charge of the building, park or other property in which the vending stand or other enterprise is to be located, select a location for such stand or enterprise and the type of equipment to be provided;
- (c) construct and equip stands where blind persons may be trained under the supervision of the Division of Services for the Blind and Visually Impaired to carry on a business as a vending stand operator;
- (d) provide adequate supervision of each person licensed to operate vending stands or other enterprises to ensure efficient and orderly management; and
- (e) make rules necessary for the proper operation of vending stands or other enterprises.

Amended by Chapter 297, 2011 General Session

55-5-3. Issuance of licenses -- Preference to blind persons -- Duration and termination of license.

The state licensing agency shall, in issuing each such license for the operation of a vending stand or other enterprise, give preference to blind persons who are in need of employment and who have resided for at least one year in the state of Utah. Each such license shall be issued for an indefinite period but may be terminated by the licensing agency if it is satisfied that the stand or enterprise is not being operated in accordance with the rules and regulations prescribed by such licensing agency.

No Change Since 1953

55-5-4. "Blind person" defined -- Certification of blindness.

As used in this act the term "blind person" means a person who is blind

according to the definitions prescribed by the Division of Vocational Rehabilitation and expressed in terms of ophthalmic measurements. Such blindness shall be certified by duly state licensed ophthalmologist.

No Change Since 1953

55-5-5. State policy -- Construction of provisions.

It is the policy of this state to provide maximum opportunities for training blind or visually impaired persons, helping them to become self-supporting and demonstrating their capabilities. This act shall be construed to carry out this policy.

Amended by Chapter 73, 2001 General Session

55-5-6. Definitions.

As used in this chapter:

(1) "Food service" includes restaurant, cafeteria, snack bar, vending machines for food and beverages, and goods and services customarily offered in connection with them.

(2) (a) "Public office building" means all county courthouses, all city or town halls, and all buildings used primarily for governmental offices of the state or any county, city, or town.

(b) "Public office building" does not include capitol hill facilities as defined in Section 63C-9-102, public schools, state colleges, or state universities.

Amended by Chapter 9, 2001 General Session

55-5-7. Agencies to negotiate for food service with the Division of Services for the Blind and Visually Impaired -- Existing contracts.

(1) A governmental agency which proposes to operate or continue a food service in a public office building shall first attempt in good faith to make an agreement with the Division of Services for the Blind and Visually Impaired to operate the food service without payment of rent.

(2) The governmental agency may not offer or grant to any other party a contract or concession to operate the food service unless the governmental agency determines in good faith that the Division of Services for the Blind and Visually Impaired is not willing to or cannot satisfactorily provide the food service.

(3) This act may not impair any valid contract existing on the effective date of this act, and does not preclude renegotiation of a valid contract on the same terms and with the same parties.

Amended by Chapter 10, 1997 General Session

55-5-8. Food service in exempt buildings.

With respect to all state, county, and municipal buildings which are not subject to Section 55-5-7, the governmental agency in charge of the building shall consider allowing the Division of Services for the Blind and Visually Impaired to operate any

existing or proposed food service in the building, and shall discuss the operation with the division under Section 53A-24-304 upon its request.

Amended by Chapter 37, 1996 General Session

55-5a-1. Legislative purpose.

The purpose of this act is to further the policy of this state to prohibit the sale, distribution, exhibition, advertisement or marketing of any products or services which are falsely represented to be blind-made and to prohibit solicitations which give the false impression of helping or representing the blind of Utah.

Enacted by Chapter 23, 1977 General Session

55-5a-2. Definitions.

As used in this act:

(1) "Blind" means an individual, or class of individuals, whose central acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

(2) "Division" means the Division of Services for the Blind and Visually Impaired.

(3) "Direct labor" means work required for preparation, processing and packing, other than supervision, administration, inspection and shipping.

Amended by Chapter 37, 1996 General Session

55-5a-3. Permit required to sell blind-made products or services or to make sales to help the blind and visually impaired.

(1) A person, group of persons or organization may not, by any means, sell, transfer or otherwise dispose of goods, articles, or products to the public in this state which are labeled as made by the blind or sold as products of the blind without first securing a permit in writing for each person selling or soliciting the sale of those goods, articles, or products from the Division of Services for the Blind and Visually Impaired.

(2) A person, group of persons, or organization may not conduct or engage in any business whatsoever in this state, if the word "blind" is used to designate its product's origin or manufacture or if it is used in such a manner as to indicate the services, goods, articles, or products that it provides are blind-made or provide help for the blind or visually impaired, unless a written permit is obtained from the division to do so.

(3) A person, group of persons, or organization may not conduct any of the activities designated in this section using a name, trade name, logo, or other identifying mark or name which implies that the person, group of persons, or organization using the name is affiliated with or sponsored by the state or any of its agencies or subdivisions, when the person, group of persons, or organization is not sponsored or supported by the state or one of its agencies or subdivisions.

Amended by Chapter 37, 1996 General Session

55-5a-4. Issuance of permits -- Eligibility -- Fee -- Local license or permit.

(1) The division may adopt rules and regulations, prescribe procedures, adopt forms and applications, review applications for permits, and issue permits as required by Section 55-5a-3 subject to the following:

(a) A product shall be considered "blind-made" if 75% or more of the direct labor hours required for its manufacture are provided by the blind.

(b) A person or organization shall be considered to be selling blind-made products if 60% or more of the wholesale cost of the seller's average inventory of products is blind-made and the seller clearly differentiates by the use of labels or other markings between blind-made products and other products.

(c) Individuals or businesses are conducting sales by the blind if 75% or more of the direct labor hours in packaging, marketing, soliciting and making sales are provided by the blind.

(d) Upon receipt of appropriate documentation indicating qualification of a person or organization seeking a license under this act, the division shall issue permits for any one, or a combination of the following: sale of products manufactured by the blind, sale of blind-made products by the blind, and sale by the blind of products not made by the blind.

(e) No permit shall be issued by the division if the business name, trade name or logo of the organization seeking the permit is similar to the name of or in any way implies an affiliation with or support of the state or one of its agencies or subdivisions if the organization is not so affiliated.

(2) A fee of not more than \$5 shall be charged for the issuance and renewal of each permit which shall be valid for a period of one year unless earlier revoked for good cause shown.

(3) No political subdivision of this state shall issue any license or permit whatsoever to sell blind-made goods, articles or products unless the person applying for that license or permit has first obtained a valid permit issued by the division.

Amended by Chapter 191, 1979 General Session

55-5a-5. Application for permit -- Investigation -- Exception -- Appeal of denial.

The division shall investigate each application for a permit to assure that the person, group of persons or organization is actually engaged in the manufacture or distribution of goods, articles or products made by blind persons within the meaning of this act. The division may issue permits without investigation, however, to nonresident persons, groups of persons or organizations upon proof that they are recognized and approved by the state in which they reside as authorized to sell such goods, articles or products pursuant to a law of that state imposing requirements substantially similar to those prescribed pursuant to this act.

Anyone denied a permit may appeal the decision of the division to the state superintendent of public instruction or his designated agent.

Amended by Chapter 191, 1979 General Session

55-5a-6. Violations -- Misdemeanor.

(1) The willful violation of this chapter by any officer, employee or agent of any political subdivision of this state, while acting in that capacity, is a class B misdemeanor.

(2) The violation of Section 55-5a-3 is a class B misdemeanor.

Amended by Chapter 241, 1991 General Session

55-12-100. Interstate Compact for Juveniles -- Execution of compact.

(1) This chapter is known as the "Interstate Compact for Juveniles."

(2) The governor is authorized and directed to execute a compact on behalf of this state with any other state or states substantially in the form of this chapter.

Enacted by Chapter 155, 2005 General Session

55-12-101. Article 1 -- Purpose.

(1) The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others.

(2) The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence.

(3) The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(4) It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(a) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(b) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(c) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(d) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(e) provide for the effective tracking and supervision of juveniles;

(f) equitably allocate the costs, benefits, and obligations of the compacting states;

(g) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile

departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

(h) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(i) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(j) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

(k) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(l) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

(m) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

(5) It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and, therefore, are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact.

(6) The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

Enacted by Chapter 155, 2005 General Session

55-12-102. Article 2 -- Definitions.

As used in this compact, unless the context clearly requires a different construction:

(1) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

(2) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.

(3) "Compacting State" means any state which has enacted the enabling legislation for this compact.

(4) "Commissioner" means the voting representative of each compacting state appointed pursuant to Section 55-12-103.

(5) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

(6) "Deputy Compact Administrator" means the individual, if any, in each

compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.

(7) "Interstate Commission" or "commission" means the Interstate Commission for Juveniles created by Section 55-12-103.

(8) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(a) "accused delinquent" meaning a person charged with an offense that, if committed by an adult, would be a criminal offense;

(b) "accused status offender" meaning a person charged with an offense that would not be a criminal offense if committed by an adult;

(c) "adjudicated delinquent" meaning a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(d) "adjudicated status offender" meaning a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(e) "nonoffender" meaning a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

(9) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

(10) "Probation or Parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

(11) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 55-12-106 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

Enacted by Chapter 155, 2005 General Session

55-12-103. Article 3 -- Interstate Commission for Juveniles.

(1) The compacting states hereby create the "Interstate Commission for Juveniles."

(2) The commission shall be a body corporate and joint agency of the compacting states.

(3) The commission shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(4) The commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of

each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder.

(5) The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the commission in such capacity under or pursuant to the applicable law of the compacting state.

(6) In addition to the commissioners who are the voting representatives of each state, the commission shall include individuals who are not commissioners, but who are members of interested organizations. Noncommissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims.

(7) All noncommissioner members of the commission shall be ex officio, nonvoting members. The commission may provide in its by-laws for additional ex officio, nonvoting members, including members of other national organizations, in numbers to be determined by the commission.

(8) Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the commission.

(9) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(10) The commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall:

(a) have the power to act on behalf of the commission during periods when the commission is not in session, with the exception of rulemaking or amendment to the compact;

(b) oversee the day-to-day activities of the administration of the compact managed by an executive director and commission staff, which administers enforcement and compliance with the provisions of the compact, its by-laws, and rules; and

(c) perform other duties as directed by the commission or set forth in the by-laws.

(11) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person and may not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(12) The commission's by-laws shall establish conditions and procedures under which the commission shall make its information and official records available to the

public for inspection or copying. The commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(13) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

- (a) relate solely to the commission's internal personnel practices and procedures;
- (b) disclose matters specifically exempted from disclosure by statute;
- (c) disclose trade secrets or commercial or financial information which is privileged or confidential;
- (d) involve accusing any person of a crime, or formally censuring any person;
- (e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (f) disclose investigative records compiled for law enforcement purposes;
- (g) disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
- (h) disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or
- (i) specifically relate to the commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

(14) For every meeting closed pursuant to this provision, the commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in the minutes.

(15) The commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

Enacted by Chapter 155, 2005 General Session

55-12-104. Article 4 -- Powers and duties of the Interstate Commission.

The commission shall have the following powers and duties:

- (1) provide for dispute resolution among compacting states;
- (2) promulgate rules to effect the purposes and obligations as enumerated in

this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(3) oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the commission;

(4) enforce compliance with the compact provisions, the rules promulgated by the commission, and the by-laws, using all necessary and proper means, including, but not limited to, the use of judicial process;

(5) establish and maintain offices which shall be located within one or more of the compacting states;

(6) purchase and maintain insurance and bonds;

(7) borrow, accept, hire, or contract for services of personnel;

(8) establish and appoint committees and hire staff which it considers necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Section 55-12-103, which shall have the power to act on behalf of the commission in carrying out its powers and duties hereunder;

(9) elect or appoint any officers, attorneys, employees, agents, or consultants, fix their compensation, define their duties, and determine their qualifications;

(10) establish the commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;

(11) accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of them;

(12) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

(13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(14) establish a budget and make expenditures and levy dues as provided in Section 55-12-108;

(15) sue and be sued;

(16) adopt a seal and by-laws governing the management and operation of the commission;

(17) perform any functions necessary or appropriate to achieve the purposes of this compact;

(18) report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the commission during the preceding year, including any recommendations that may have been adopted by the commission;

(19) coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in the activity;

(20) establish uniform standards for the reporting, collecting, and exchanging of data; and

(21) maintain its corporate books and records in accordance with the by-laws.

Enacted by Chapter 155, 2005 General Session

55-12-105. Article 5 -- Organization and operation of the Interstate

Commission.

(1) Section A. By-laws

The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

- (a) establishing the fiscal year of the commission;
- (b) establishing an executive committee and any other committees as necessary;
- (c) providing for the establishment of committees governing any general or specific delegation of any authority or function of the commission;
- (d) providing reasonable procedures for calling and conducting meetings of the commission, and ensuring reasonable notice of each meeting;
- (e) establishing the titles and responsibilities of the officers of the commission;
- (f) providing a mechanism for concluding the operations of the commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;
- (g) providing "start-up" rules for initial administration of the compact; and
- (h) establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(2) Section B. Officers and Staff

(a) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have the authority and duties specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the commission.

(b) The officers shall serve without compensation or remuneration from the commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the commission.

(c) The commission shall, through its executive committee, appoint or retain an executive director for any time period, upon any terms and conditions, and for any compensation as the commission may consider appropriate. The executive director shall serve as secretary to the commission, but may not be a member and shall hire and supervise other staff as authorized by the commission.

(3) Section C. Qualified Immunity, Defense, and Indemnification

(a) The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that a person may not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

(b) The liability of any commissioner, or the employee or agent of a

commissioner, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this Subsection (3) shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

(c) The commission shall defend the executive director or the employees or representatives of the commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend the commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

(d) The commission shall indemnify and hold the commissioner of a compacting state, the commissioner's representatives or employees, or the commission's representatives or employees harmless in the amount of any settlement or judgment obtained against the persons arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the persons had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the persons.

Enacted by Chapter 155, 2005 General Session

55-12-106. Article 6 -- Rulemaking functions of the Interstate Commission.

(1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(2) Rulemaking shall occur pursuant to the criteria set forth in this section and the by-laws and rules adopted pursuant thereto. Rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or any other administrative procedures act, as the commission considers appropriate, consistent with due process requirements under the U.S. Constitution as interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

(3) When promulgating a rule, the commission shall, at a minimum:

(a) publish the proposed rule's entire text stating the reasons for that proposed rule;

(b) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available;

(c) provide an opportunity for an informal hearing if petitioned by ten or more

persons; and

(d) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(4) Not later than 60 days after a rule is promulgated, the commission shall allow any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the commission's principal office is located for judicial review of the rule. If the court finds that the commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this Subsection (4), evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

(5) If a majority of the legislatures of the compacting states reject a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, state that the rule shall have no further force and effect in any compacting state.

(6) The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created in this chapter.

(7) Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

Enacted by Chapter 155, 2005 General Session

55-12-107. Article 7 -- Oversight, enforcement, and dispute resolution by the Interstate Commission.

(1) Section A. Oversight

(a) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor activities being administered in noncompacting states which may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission, it shall be entitled to receive all service of process in any proceeding, and shall have standing to intervene in the proceeding for all purposes.

(2) Section B. Dispute Resolution

(a) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and

activities pertaining to compliance with the provisions of the compact and its by-laws and rules.

(b) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Section 55-12-109.

Enacted by Chapter 155, 2005 General Session

55-12-108. Article 8 -- Finance.

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the commission and its staff which shall be in a total amount sufficient to cover the commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state. The commission shall promulgate a rule binding upon all compacting states which governs the assessment.

(3) The commission may not incur any obligations of any kind prior to securing the funds adequate to meet the obligations, nor shall the commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its by-laws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

Enacted by Chapter 155, 2005 General Session

55-12-109. Article 9 -- The state council.

(1) Each member state shall create a State Council for Interstate Juvenile Supervision.

(2) While each state may determine the membership of its own state council, its membership shall include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee.

(3) Each compacting state retains the right to determine the qualifications of the

compact administrator or deputy compact administrator.

(4) Each state council shall advise and may exercise oversight and advocacy concerning that state's participation in commission activities and other duties determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

Enacted by Chapter 155, 2005 General Session

55-12-110. Article 10 -- Compacting states, effective date, and amendment.

(1) Any state, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Section 55-12-102 is eligible to become a compacting state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The initial effective date shall be the later of July 1, 2004 or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

(3) The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(4) The commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Enacted by Chapter 155, 2005 General Session

55-12-111. Article 11 -- Withdrawal, default, termination, and judicial enforcement.

(1) Section A. Withdrawal

(a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state.

(b) A compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law. The effective date of withdrawal is the effective date of the repeal.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(e) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon a later date as determined by the commission.

(2) Section B. Technical Assistance, Fines, Suspension, Termination, and

Default

(a) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the commission may impose any or all of the following penalties:

- (i) remedial training and technical assistance as directed by the commission;
- (ii) alternative dispute resolution;
- (iii) fines, fees, and costs in amounts considered to be reasonable as fixed by the commission; and
- (iv) suspension or termination of membership in the compact.

(b) Suspension or termination of membership in the compact shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the commission has determined that the offending state is in default.

(c) Immediate notice of suspension shall be given by the commission to the governor, the chief justice, or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(d) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules, and any other grounds designated in commission by-laws and rules.

(i) The commission shall immediately notify the defaulting state in writing of the penalty imposed by the commission and of the default pending a cure of the default.

(ii) The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default.

(e) If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated upon the effective date of termination.

(f) Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of the termination.

(g) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(h) The commission may not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the commission and the defaulting state.

(i) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the commission pursuant to the rules.

(3) Section C. Judicial Enforcement

(a) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the

discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default.

(b) In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of litigation, including reasonable attorneys' fees.

(4) Section D. Dissolution of Compact

(a) The compact dissolves effective upon the date of the withdrawal or default of a compacting state, which reduces membership in the compact to one compacting state.

(b) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, the business and affairs of the Interstate Commission shall be concluded, and any surplus funds shall be distributed in accordance with the by-laws.

Enacted by Chapter 155, 2005 General Session

55-12-112. Article 12 -- Severability and construction.

(1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Enacted by Chapter 155, 2005 General Session

55-12-113. Article 13 -- Binding effect of compact and other laws.

(1) Section A. Other Laws

(a) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(b) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

(2) Section B. Binding Effect of the Compact

(a) All lawful actions of the commission, including all rules and by-laws promulgated by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation.

(d) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by the provision upon the commission shall be ineffective and the obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which the obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Enacted by Chapter 155, 2005 General Session

55-12-114. Juvenile compact administrator.

(1) Pursuant to this compact, the governor is authorized and empowered to designate a compact administrator and who, acting jointly with like administrators of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor.

(2) The compact administrator is authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state.

Renumbered and Amended by Chapter 155, 2005 General Session

55-12-115. Supplementary agreements.

The compact administrator is authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that the supplementary agreement requires or contemplates the use of any institution or facility of this state or requires or contemplates the provision of any service by this state, the supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Renumbered and Amended by Chapter 155, 2005 General Session

55-12-116. Financial arrangements.

The compact administrator, subject to the approval of the Department of Finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into.

Renumbered and Amended by Chapter 155, 2005 General Session

55-12-117. Responsibility of parents.

The compact administrator is authorized to take appropriate action to recover from parents or guardians, any and all costs expended by the state, or any of its subdivisions, to return a delinquent or nondelinquent juvenile to this state, for care provided pursuant to any supplementary agreement, or for care pending the return of the juvenile to this state.

Renumbered and Amended by Chapter 155, 2005 General Session

55-12-118. Responsibilities of state courts, departments, agencies, and

officers.

The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

Renumbered and Amended by Chapter 155, 2005 General Session